



17175 Docket No. 2976-4037US1

Express Mail No. EV357836964US

U.S. PTO

16018 U.S. PTO  
10/743704



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**UTILITY APPLICATION AND FEE TRANSMITTAL §(1.53(b))**

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing is the patent application of

Inventor(s) names and addresses:

1. Tim Keith, 324 North Road, Bedford, MA 01730;
2. Randall Little, 73 Elm Road #6, Newtonville, MA 02460;
3. Paul Van Eerdewegh, 25 Linden Circle, Weston, MA 02493;
4. Josée Dupuis, 111 Fairway Drive, Newton, MA 02465;
5. Richard Del Mastro, 31 Lakeshore Drive, Norfolk, MA 02056;
6. Jason Simon, 1019 Summit Avenue, Westfield, NJ 07090;
7. Kristina Allen, 11 Oliver Lane, Hopkinton, MA 01749; and
8. Sunil Pandit, 353 W Side Drive, Apt. 202, Gaithersburg, MD 20878-3028.

For: NOVEL HUMAN GENES RELATED TO RESPIRATORY DISEASES AND OBESITY

Enclosed Are:

- 92 page(s) of specification
- 1 page(s) of Abstract
- 5 page(s) of claims
- 24 sheets of ☒ Formal ☐ Informal drawings
- 9 page(s) Preliminary Amendment to Accompany Substitute Sequence Listing
- 2 page(s) Statement to Support Filing and Submission In Acceptance With 37 C.F.R. § 1.821-1.825 (copy from prior application)
- 32 page(s) Sequence Listing (copy from prior application)
- 8 page(s) of Declaration and Power of Attorney
- ☐ Unsigned
- ☐ Newly Executed
- ☒ Copy from prior application
- ☐ Deletion of inventors including Signed Statement under 37 C.F.R. §1.63(d)(2)

☒ **REQUEST AND CERTIFICATION UNDER 35 U.S.C. §122(b)(2)(B)(i) (form PTO/SB/35)**

As indicated on the attached Request and Certification, Applicant(s) certify that the invention disclosed in the attached application HAS NOT and WILL NOT be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. Applicant(s) therefore request(s) that the attached application NOT be published under 35 U.S.C. §122(b).

☒ Incorporation by Reference:

☒ The entire disclosure of the prior application, from which a copy of the combined Declaration and Power of Attorney is supplied herein, is considered as being part of the disclosure of the accompanying application and is incorporated herein by reference.

☐ Deletion of Inventors (37 C.F.R. §1.63(d) and §1.33(b))

Signed statement attached deleting inventor(s) named in the prior application serial no. \_\_\_\_\_, filed \_\_\_\_\_.

☐ Microfiche Computer Program (Appendix)

☐ page(s) of Sequence Listing

☐ computer readable disk containing Sequence Listing

☐ Statement under 37 C.F.R. §1.821(f) that computer and paper copies of the Sequence Listing are the same

☒ Assignment Papers (assignment cover sheet and assignment documents)

☐ A check in the amount of \$40.00 for recording the Assignment

☐ Charge the Assignment Recordation Fee to Deposit Account No. 13-4500, Order No. \_\_\_\_\_.

☒ Assignment Papers filed in the parent application Serial No. 09/627,465 at Reel 011957, Frame 0847.

☐ Certification of chain of title pursuant to 37 C.F.R. §3.73(b)

☐ Priority is claimed under 35 U.S.C. §119 for:  
Application No(s). \_\_\_\_\_, filed \_\_\_\_\_, in \_\_\_\_\_ (country).

☐ Certified Copy of Priority Document(s) [\_\_\_\_\_]

☐ filed herewith

☐ filed in application Serial No. \_\_\_\_\_, filed \_\_\_\_\_.

☐ English translation document(s) [\_\_\_\_\_]

☐ filed herewith

☐ filed in application Serial No. \_\_\_\_\_, filed \_\_\_\_\_.

☒ Priority is claimed under 35 U.S.C. §119(e) for:  
Provisional Application No. 60/146,336, filed July 30, 1999 and provisional application no. 60/211,749, filed June 14, 2000.

- ☒ Information Disclosure Statement
- ☒ Copy of all cited references
- ☒ PTO Form-1449
- ☒ References cited in parent application Serial No. 09/627,465, filed July 28, 2000.
- ☐ Related Case Statement under 37 C.F.R. §1.98(a)(2)(iii)
- ☐ A copy of related pending U.S. Application(s) Serial No(s): \_\_\_\_\_, filed \_\_\_\_\_, respectively, is attached hereto.
- ☐ A copy of related pending U.S. Application(s) entitled, \_\_\_\_\_, filed \_\_\_\_\_ to inventor(s) \_\_\_\_\_, respectively, is attached hereto.
- ☐ A copy of each related application(s) was submitted in parent application serial no. \_\_\_\_\_, filed \_\_\_\_\_.
- ☐ Preliminary Amendment
- ☐ Return receipt postcard (MPEP 503)
- ☒ This is a ☐ continuation ☒ divisional ☐ continuation-in-part of prior application serial no. 09/627,465, filed July 28, 2000, to which priority under 35 U.S.C. §120 is claimed.
- ☐ Cancel in this application original claims \_\_\_\_\_ of the parent application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by this Amendment have been properly numbered consecutively beginning with the number following the highest numbered original claim in the prior application).
- ☒ The status of the parent application is as follows:
- ☐ A Petition for Extension of Time and a Fee therefor has been or is being filed in the parent application to extend the term for action in the parent application until \_\_\_\_\_.
- ☐ A copy of the Petition for Extension of Time in the co-pending parent application is attached.
- ☒ No Petition for Extension of Time and Fee therefor are necessary in the co-pending parent application.
- ☐ Please abandon the parent application at a time while the parent application is pending or at a time when the petition for extension of time in that application is granted and while this application is pending has been granted a filing date, so as to make this application co-pending.
- ☐ Transfer the drawing(s) from the parent application to this application
- ☒ Amend the specification by inserting before the first line the sentence:  
This is ☐ continuation ☒ divisional ☐ continuation-in-part of co-pending application Serial No. 09/627,465, filed July 28, 2000.

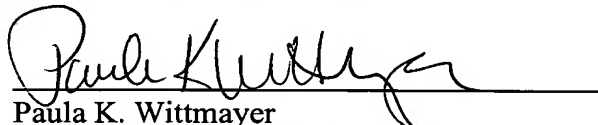
I. CALCULATION OF APPLICATION FEE				
	Number Filed	Number Extra	Rate	Basic Fee \$770.00/385.00
Total Claims	33- 20 =	13x	\$18.00/ \$9.00	\$ 234.00
Independent Claims	10- 3 =	7x	\$86.00/ \$43.00	\$ 602.00
<input type="checkbox"/> Multiple Dependent Claims		If marked, add fee of \$290.00 (\$145.00)		\$
TOTAL:				\$ 1606.00

- ☐ Small entity status is or has been claimed. Reduced fees under 37 C.F.R. §1.9 (f) paid herewith \$\_\_\_\_\_.
- ☒ A check in the amount of \$1606.00 in payment of the application filing fees is attached.
- ☐ Charge fee to Deposit Account No. 13-4500, Order No. \_\_\_\_\_. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required for filing this application pursuant to 37 CFR §1.16, **including all extension of time fees pursuant to 37 C.F.R. § 1.17 for maintaining copendency** with the parent application, or credit any overpayment to Deposit Account No. 13-4500, Order No. 2976-4037US1. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

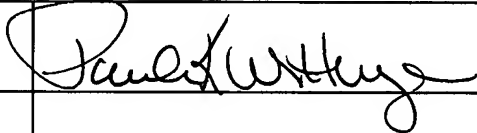
Dated: December 22, 2003

By:

  
Paula K. Wittmayer  
Registration No. 53,785

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.  
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<b>REQUEST AND CERTIFICATION UNDER 35 U.S.C. 122(b)(2)(B)(i)</b>	Application No.	TBA
	Filing Date	HEREWITH
	First Named Inventor	Tim Keith
	Group Art Unit	TBA
	Examiner Name	TBA
	Atty Docket No.	2976-4037US1
<p>I hereby certify that the invention disclosed in the attached application <b>has not and will not be</b> the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. §122(b).</p> <p>This request is signed in compliance with 37 C.F.R. §1.33(b) and is being submitted with the application <b>at the time of filing</b>.</p>		
<p align="center"><b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED</b></p>		
Signature		Date December 22, 2003
Name (Print/Type)	Paula K. Wittmayer	Reg. No. (Atty/Agent)
<p>Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. §122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.</p> <p>If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant <b>must</b> notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. <b>Failure to do so will result in abandonment of this application (35 U.S.C. §122(b)(2)(B)(iii)).</b></p>		

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Tim KEITH, Randall LITTLE, Paul VAN EERDEWEGH, Josée DUPUIS, Richard Del MASTRO, Jason SIMON, Kristina ALLEN, and Sunil PANDIT  
 Group Art Unit: TBA  
 Serial No.: TBA  
 Examiner: TBA  
 Filed: Herewith  
 For: NOVEL HUMAN GENES RELATED TO RESPIRATORY DISEASES AND OBESITY

**EXPRESS MAIL CERTIFICATE**

Mail Stop Patent Application  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Express Mail Label No.: **EV357836964US**  
 Date of Deposit: **December 22, 2003**

I hereby certify that the following attached paper(s) and/or fee

1. Utility Application and Fee Calculation;
2. Specification: 92 pp., Claims: 5 pp., Abstract: 1 pg.;
3. Twenty – Four (24) Sheets of Formal Drawings;
4. Preliminary Amendment to Accompany Sequence Listing;
5. Statement to Support Filing and Submission In Acceptance With 37 C.F.R. § 1.821-1.825 (copy from prior application);
6. Sequence Listing (copy from prior application);
7. Declaration and Power of Attorney (copy from prior application);
8. Information Disclosure Statement;
9. PTO-Form 1449 w/copies of all cited references from the prior application;
10. Request and Certification Under 35 U.S.C. 122(b)(2)(b)(i);
11. A check in the amount of \$1606.00; and
12. A return receipt postcard.

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Albert Isles

(Typed or printed name of person mailing papers(s) and/or fee)

(Signature of person mailing paper(s) and/or fee)

**Correspondence Address:**  
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